

REMARKS

The Office Action dated June 19, 2003 has been reviewed carefully and the application has been amended in order to place the claims in condition for allowance.

Claim Rejections - 35 U.S.C. § 103

Claims 16-19 and 24-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Doiron, *et al.*, WO 98/23050 ("Doiron"), and United States Patent Number 5,794,141 ("Zicker") and United States Patent Number 5,414,751 ("Yamada").

The Applicant's inventions, as well as the Doiron and Zicker references were discussed in the response to the previous Office Action, which response was filed on April 3, 2003. In the present Office Action, the Examiner indicates that Doiron and Zicker fail to disclose when program segments can be selectively transmitted without regard to sequence. But, the Examiner states that Yamada discloses a wireless apparatus responsive to control signals for mending or updating operational programming, portions of which can sent be out of sequence. Yamada teaches transmitting an operational program completely, if no errors are detected. If any errors occur, the data corresponding to the errors is retransmitted. The errors are detected using a parity check performed by a modem that is attached to a fixedly wired telephone line.

The first distinction which Applicant's invention has over the Yamada reference is that Applicant's program is transmitted from a base station to a wireless subscriber terminal, and a response is transmitted from the wireless subscriber terminal over a

control channel to the base station indicating whether the terminal can be a recipient of the new program, and after the new program is transmitted whether all or a portion of it is successfully received. There is no need to have a fixedly wired telephone involved. Thus, Yamada alone does not suggest Applicant's solution.

More specifically, as recited in amended independent claim 16, a base station, includes a transmitter that transmits forward messages to a wireless subscriber terminal and these forward messages that include polling inquiries to recipient terminals over a control channel to determine whether a terminal can be a recipient of the new program and subsequent messages involve the transmission of a new control program to the recipient terminal, or one or more program segments of the new program can be selectively transmitted, without regard to sequence. Amended claim 16 also recites a receiver for receiving reverse messages from the wireless terminal over an air interface including status messages from the recipient terminal over a point to point control channel for indicating the status of the reception of the new control program, or portion thereof. This is a bi-directional communication between the base station and the wireless subscriber terminal in a wireless environment without the need of a separate connector or fixedly wired telephone as indicated in Yamada. Similarly, newly amended claim 24 relates to a wireless subscriber terminal that has corresponding capabilities. None of these features are taught or suggested by Yamada alone.

Furthermore, the combination Yamada's suggestion of simply providing a parity check, with Doiron and Zicker, does not render Applicant's invention obvious. As in-

dictated by the Examiner, the combination fails to teach or suggest wireless subscriber terminals (WSTs) that receive, via control channels, information regarding new control programs from base stations, wherein the WSTs transmit a response message to the base station which indicate whether the terminal will be a recipient for the new control program and wherein each WST receives a status request to determine if specific data blocks are missing, and is so, retransmitting to the WSTs select missing data blocks.

The rejected claims have been amended to include these concepts. The present amendments clarify these distinctions that the claimed invention has over the cited reference.

Allowed Claims

Applicant gratefully acknowledges the allowance of claims 1, 3, 4, 6-20, 22, 24-29, 31 and 33.

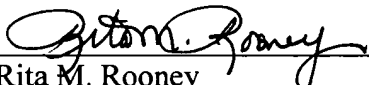
SUMMARY

The rejected claims have either been amended herein, or depend upon an amended independent claim. It is respectfully submitted that these amendments enhance and clarify the distinctions that the present invention has over the cited references. All of the other claims have either been allowed or were previously cancelled. Accordingly, Applicant respectfully submits that the application is now in condition for allowance.

Please do not hesitate to contact the undersigned in order to advance the prosecution of this application in any respect.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,



Rita M. Rooney
Reg. No. 30,585
CESARI AND MCKENNA, LLP
88 Black Falcon Avenue
Boston, MA 02210-2414
(617) 951-2500